

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) CHAPTER 7
)
Felipe Nery Gomez,) CASE NO. 23-03023
)
) HONORABLE A. Benjamin Goldgar
)
) Date: **Monday, April 29, 2024**
Debtor.) Time: **10:00 a.m.**
)

AMENDED NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on **Monday, April 29, 2024, at 10:00 a.m.** I will appear before the Honorable A. Benjamin Goldgar, or any judge sitting in that judge's place, either in **Courtroom 642** of the **Everett McKinley Dirksen United States Courthouse**, at **219 South Dearborn Street, Chicago, IL 60604** or electronically as described below and present the **AMENDED MOTION OF TRUSTEE FOR AUTHORITY TO ABANDON THE ESTATE'S INTEREST IN THE "BRAID v. STILLEY" LITIGATION**, a copy of which is attached.

IMPORTANT: Only parties and their counsel may appear for presentment of the motion electronically using Zoom for Government. All others must appear in person.

To appear by Zoom using the internet, use this link: <https://zoomgov.com/>. Then enter the meeting and ID password.

To appear by Zoom using the telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is 161 500 0972 and the password is 726993. This meeting ID and password can also be found on the judge's page on the bankruptcy court's web site.

If you object to this motion and want it called on the presentation date above, you must file a Notice of Objection no later than two (2) business days before the date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of objection is timely filed, the court may grant the motion in advance without a hearing.

/s/ Frank J. Kokoszka

Frank J. Kokoszka, Esq. (ARDC # 6201436); Kokoszka & Janczur, P.C.; 19 South LaSalle Street, Suite 1201; Chicago, Illinois 60603; (312) 443-9600 phone; fkokoszka@k-jlaw.com

CERTIFICATE OF SERVICE

I, Frank J. Kokoszka, hereby certify that on April 10, 2024, a true and correct copy of the Chapter 7 Trustee's **AMENDED MOTION FOR AUTHORITY TO ABANDON THE ESTATE'S INTEREST IN THE "BRAID v. STILLEY" LITIGATION** was filed electronically. Notice of the filing, together with a true and correct copy of the motion, will be automatically served upon all parties who are named on the Electronic Mail Notice List by operation of the Court's Electronic Filing System and by U.S. Mail placed in envelopes, postage pre-paid at the U.S. Mailbox at 19 South LaSalle or via electronic mail (e-mail) as set forth below, prior to 5:00 pm on April 10, 2024.

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(Via ECF Notice)

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Dated: April 10, 2024

/s/ Frank J. Kokoszka
Frank J. Kokoszka, Counsel for the Trustee

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IN RE:)	CHAPTER 7
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)	Judge A. Benjamin Goldgar
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Debtor.)	Date: Monday, April 29, 2024
)	Time: 10:00 a.m.

**AMENDED MOTION OF TRUSTEE FOR
AUTHORITY TO ABANDON THE ESTATE'S
INTEREST IN THE "BRAID v. STILLEY"
LITIGATION**

Frank J. Kokoszka (herein "Trustee"), by his attorneys, hereby files his motion pursuant to section 554 of the United States Bankruptcy Code, 11 U.S.C. 101, et seq. (the "Code") and Fed. R. Bankr. P. 6007(a) for authority to abandon the interest of the estate in the *Braid v. Stilley, Gomez, Demino* litigation (the "Braid v. Stilley Litigation") as that is defined further in the Debtor's 2nd Attachment I to Schedule A/B & C (Docket Entry #144). In support thereof, the Trustee respectfully states as follows:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1334 and 157(b)(2)(A) & (E) as a core proceeding. Venue is properly before this Court pursuant to 28 U.S.C. §1409.

2. On March 7, 2023, (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Illinois. The Trustee is the duly appointed chapter 7 trustee of the Debtor's bankruptcy estate.

3. The Debtor's Amended Schedule A/B, including the Debtor's 2nd Attachment I to Schedule A/B & C lists lawsuits which the Debtor has filed as the Plaintiff including appeals in those cases (the

“Lawsuits”). One of those lawsuits is the Braid v. Stilley Litigation, which includes a Seventh Circuit Appeal, #22-2815 and the underlying case in the Northern District of Illinois, #21cv5283. (See Docket Entry # 144, p.11) Pursuant to Bankruptcy Code section 521, the Braid v. Stilley Litigation constitutes property of the bankruptcy estate.

4. While the Trustee has reached settlements in a few of the Lawsuits, he has not been able to liquidate the Estate’s interest in the Braid v. Stilley Litigation. Any attempts for the Trustee to become involved in the Braid v. Stilley Litigation and attempt to recover funds for the Estate would be too costly to the Estate. The Trustee now asserts that the Braid v. Stilley Litigation is of inconsequential value to the Estate.

5. Since the Trustee has been unable to liquidate the Estate’s interests in the Braid v. Stilley Litigation, the Trustee believes that it is in the best interests of the Estate to abandon the Estate’s interests therein.

6. Interested Party Oscar Stilley previously filed a Motion for Relief from the Automatic Stay as to the Braid v. Stilley Litigation (Docket Entry #46) so that the parties could proceed with any filings the parties therein deem necessary either in the Appeal and the underlying litigation. That Motion for Relief was denied (Docket Entry #46).

7. Debtor also sought relief from the automatic stay, specifically with the filing of his “Motion for Modification of Stay and For Fee Waiver.” (Docket Entry #286) In denying the Debtor’s Motion, the Court suggested to the Debtor that a Motion to Compel the Trustee to Abandon the Estate’s Interest in the Braid v. Stilley Litigation may be more appropriate (Docket Entry #292). Shortly thereafter, the Debtor informed both Mr. Stilley and the Trustee that he would not file a Motion to Abandon (See **Exhibit A**, attached hereto.)

8. Abandoning the Estate’s interest in the Braid v. Stilley litigation would remove it from Property of the Estate and it will no longer be subject to the Bankruptcy Code’s Automatic

Stay.

9. The Trustee has provided electronic notice of this Motion to the U.S. Trustee, Debtor's Counsel and those creditors that have requested notice herein. The Trustee has also provided electronic notice or mail notice to other interested parties including attorneys for Alan Braid, M.D. Pursuant to Bankruptcy Rule 6007(a), the Trustee has also provided at least 14 days' notice to those creditors that have filed proofs of claims herein- Synchrony Bank, E*Trade Securities, Illinois Department of Revenue and the Department of Treasury-Internal Revenue Department.

WHEREFORE, the Trustee prays for entry of an Order authorizing him to abandon the Estate's Interest in the Braid v. Stilley Litigation and for any other and additional relief as this Court deems just and equitable.

Respectfully submitted,
Frank J. Kokoszka, as chapter 7 Trustee,

By: /s/ Frank J. Kokoszka
Frank J. Kokoszka,
One of his attorneys

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